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*Attorneys for Defendants
JOSEPH DARGER and
EDGE TRANSPORTATION, LLC*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

IRMA WIDNER,

Plaintiff,

vs.

JOSEPH DARGER; EDGE
TRANSPORTATION, LLC, a Kentucky Limited
Liability Company; DOES I through X; and ROE
BUSINESS ENTITIES I through X, inclusive,

Defendants.

| Case No.

District Court Case No. A-19-796025-C

NOTICE OF REMOVAL

COMES NOW Defendants JOSEPH DARGER (hereinafter “Darger”) and EDGE TRANSPORTATION, LLC (hereinafter “Edge Transportation” and collectively, “Defendants”), by and through their counsel, Marsha L. Stephenson, Esq. of the law firm of Stephenson & Dickinson, hereby submit this Notice of Removal of action to the United States District Court for the District of Nevada pursuant to 28 USC § 1332 and 28 USC § 1441.

Removal is appropriate pursuant to 28 USC § 1446(b) because this Court has original jurisdiction over this litigation pursuant to 28 USC § 1332 and 28 USC § 1441; the matter in controversy allegedly exceeds the \$75,000.00 requirements of 28 USC § 1332 as based upon Plaintiff,

1 IRMA WIDNER (hereinafter "Plaintiff")'s alleged damages, exclusive of costs and interest; and
2 diversity jurisdiction exists between Plaintiff and Defendants on the following grounds:

3 **I. NOTICE OF REMOVAL**

4 **A) Factual Background**

5 1. Plaintiff filed a Complaint in Case No. A-19-795187-C on May 21, 2019 in District
6 Court, Clark County, Nevada. Copies of all pleadings, process, and orders served in the underlying
7 action are being submitted to this Court concurrently herewith by way of Defendants' Index of
8 Pleadings from State Court Action, as required by 28 USC § 1446(a).

9 2. The instant litigation arises from an alleged motor vehicle accident on June 20, 2017 in
10 which Plaintiff alleges that she suffered personal injuries, loss of earning capacity, lost wages, pain
11 and suffering, and emotional distress. *See Exhibit 1 to Index of Pleadings from State Court Action* on
12 file herein at ¶ 16, 17 and 22.

13 **B) Diversity Jurisdiction – Amount in Controversy**

14 3. This Court has jurisdiction over this matter pursuant to 28 USC § 1332 based upon
15 diversity as the amount in controversy exceeds \$75,000.00 and as the Plaintiff is diverse from all
16 Defendants in this matter.

17 4. Plaintiff seeks damages in an amount greater than \$75,000.00. Plaintiff's Complaint
18 alleged an amount in excess of \$60,000.00 (the sum of general and special damages pursuant to
19 Plaintiff's Complaint attached as Exhibit 1 to Index of Pleadings from State Court Action on file herein
20 at ¶ 17, 22, 29 and 30). However, on June 15, 2018, correspondence was received by Defendants'
21 insurer, wherein Plaintiff alleges by her computation of damages that she has incurred \$70,918.52 in
22 medical specials as of the date of the correspondence. (*See Exhibit A hereto, redacted copy of*
23 *correspondence without attachments*). While not identified/broken down in a dollar amount in
24 Plaintiff's June 15, 2019 correspondence, the remaining claims of lost wages, loss of earning capacity,
25 pain and suffering and emotional distress identified in Plaintiff's Complaint presumably bring the total
26 amount of claimed damages well beyond \$75,000.00. Thus, the amount in controversy requirement
27 for diversity jurisdiction has been met.

1 **C) Diversity Jurisdiction – Parties are Diverse**

2 5. Plaintiff's Complaint identifies Plaintiff as a resident of Clark County Nevada. (*See*
 3 Exhibit 1 to Index of Pleadings from State Court Action on file herein at ¶ 1). Defendant Darger is a
 4 resident of Utah (*See Exhibit 1 to Index of Pleadings from State Court Action at ¶ 2*). Defendant Edge
 5 Transportation, LLC is a Domestic Limited Liability Company in the state of Utah, is not incorporated
 6 in Nevada and does not maintain a principal place of business in Nevada (*See Exhibit B hereto, Edge*
 7 *Transportation, LLC Entity Details from Utah Business Search*). Further, the only owner of Edge
 8 Transportation is Ronald Barlow who resides in Utah. *See Exhibit B hereto, Edge Transportation, LLC*
 9 *Entity Details from Utah Business Search*). Thus, the diversity jurisdiction requirements are met
 10 pursuant to 28 USC § 1332.

11 **D) Removal is Timely**

12 6. Defendant Edge Transportation was allegedly served with the Summons and Complaint
 13 in the underlying State Court action on June 6, 2019 pursuant to the July 30, 2019 Affidavit of Service
 14 (*See Exhibit 5 to Index of Pleadings from State Court Action*). However, Plaintiff effected service on
 15 a separate entity located in the State of Kentucky. To date, service has not been effected upon
 16 Defendant Edge Transportation. Pursuant to the August 23, 2019 Affidavit of Service for the
 17 underlying State Court action, Defendant Darger was served via the Nevada Department of Motor
 18 Vehicles, even though Plaintiff's Complaint indicated that he is a resident of Utah. To date, service
 19 upon Darger has yet to be confirmed. As such, Defendants are not currently able to confirm service
 20 upon either entity. However, Defendants' instant Petition for Removal is being filed September 12,
 21 2019. Accordingly, removal is timely as it is being filed within thirty (30) days of alleged service upon
 22 Defendant Darger pursuant to 28 USC § 1441(b)(1).

23 7. A Notice of Removal is being filed with the State Court concurrently herewith.

24 8. All fees required by law in connection with this Petition have been filed by Defendants
 25 at the time of filing, or any deficiency will be cured immediately as allowed by the Court.

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II. CONCLUSION/PRAYER FOR RELIEF

WHEREFORE, Defendants JOSEPH DARGER and EDGE TRANSPORTATION, LLC by and through their counsel, Marsha L. Stephenson, Esq. of the law firm of Stephenson & Dickinson, hereby petition this Court for removal of the action now pending in the Eighth Judicial District Court of Nevada, in and for the County of Clark, as Case No. A-19-795187-C, to the United States District Court, District of Nevada.

DATED this 12th day of September, 2019.

STEPHENSON & DICKINSON, P.C.

By: /s/ Marsha L. Stephenson
MARSHA L. STEPHENSON, ESQ.
Nevada Bar No. 6130
2820 West Charleston Boulevard, Suite 17
Las Vegas, Nevada 89102
Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 12th day of September, 2019, a true and correct copy of the foregoing **NOTICE OF REMOVAL** was served via electronic service, addressed as follows:

Leila L. Hale, Esq.
Jolene J. Manke, Esq.
HALE INJURY LAW
1661 W. Horizon Ridge Parkway
Suite 200
Henderson, NV 89012
lhale@haleinjurylaw.com
jmanke@halinjurylaw.com
Attorneys for Plaintiff

Employee of STEPHENSON & DICKINSON

Exhibit A



1661 West Horizon Ridge Parkway, Suite 200
Henderson, Nevada 89012
(702) 736-5800 Fax: (702) 534-4655

Leila Hale, Esquire
lhale@haleinjurylaw.com

John Funk, Esquire
jfunk@haleinjurylaw.com

PLEASE NOTE OUR NEW ADDRESS

June 15, 2018

Christine Beistline
Integrity Administrators
5300 Derry Street
Harrisburg, PA 17111-0499

Re: *Our Client:* *Irma Widner*
 Your Insured: *Joseph Darger*
 Date of Loss: *June 20, 2017*
 Claim #: [REDACTED]

[REDACTED]

Dear Ms. Beistline:

Please find enclosed a CD with the materials substantiating this claim, including medical reports and corresponding medical bills for the following providers:

• Advanced Spine & Posture	\$ 13,735.00
• Neck and Back Clinic	\$ 1,876.00
• Pain Institute of Nevada	\$ 18,600.00
• Clinical Neurology Specialists	\$ 1,700.00
• SPINE	\$ 4,095.00
• Jeffrey Gross Billing Co.	\$ 1,740.00
• Valley View Surgery Center	\$ 22,251.32
• Pueblo Medical Imaging	\$ 150.00
• Steinberg Diagnostic Imaging	\$ 171.00
• SimonMed Imaging	\$ 4,336.60
• Fyzical Therapy	\$ 330.00
• Las Vegas Neurology Center	\$ 1,933.00
TOTAL:	\$ 70,918.52

[REDACTED]

[REDACTED]

Sincerely,

Leila Hale

Leila L. Hale, Esq.
HALE INJURY LAW

LLH/lg

*Claim #: 8035
Demand - Page 2
June 15, 2018*

Exhibit B

EDGE TRANSPORTATION LLC

[Update this Business](#)

Entity Number: 10228275-0160

Company Type: LLC - Domestic

Address: 124 S MAIN STREET #4147 CEDAR CITY, UT 84720

State of Origin:

Registered Agent: RONALD ORSON BARLOW

Registered Agent Address:

2005 S GREAT BASIN DRIVE

WASHINGTON, UT 84780

[View Management Team](#)

Status: Active

[Purchase Certificate of Existence](#)

Status: Active *as of 03/25/2019*

Renew By: 01/31/2020

Status Description: Current

The "Current" status represents that a renewal has been filed, within the most recent renewal period, with the Division of Corporations and Commercial Code.

Employment Verification: Not Registered with Verify Utah

History

[View Filed Documents](#)

Registration Date: 01/17/2017

Last Renewed: 03/25/2019

Additional Information

NAICS Code: 4841 **NAICS Title:** 4841-General Freight Trucking